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Single Convention on Narcotic Drugs, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs, 1961 (New York, 8 August 1975)

Proposal of amendments by Bolivia to article 49, paragraphs 1 (c) and 2 (e)

Note by the Secretary-General

The Secretary-General has received a note verbale dated 12 March 2009 from the Permanent Mission of Bolivia to the United Nations, attached to which is a letter from the President of Bolivia, Evo Morales Ayma, dated 12 March 2009, in which the Government of Bolivia proposes to amend article 49, paragraphs 1 (c) and 2 (e), of the Single Convention on Narcotic Drugs, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs, 1961 (see annex).

In accordance with article 47 (1) of the Convention, as amended, the Secretary-General, acting in his capacity as depositary, communicated to the Parties to the Convention the proposal of amendments and the reasons therefor received from Bolivia in a Depositary Notification dated 6 April 2009.

Also in accordance with article 47 (1) of the Convention, as amended, the Secretary-General is hereby communicating to the Economic and Social Council the text of the amendments and the reasons therefor received from Bolivia.

The Secretary-General wishes to refer to article 47 (1) and (2) of the Convention, as amended, which provides that:

> 1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated to the Secretary-General who shall communicate them to the Parties and to the Council. The Council may decide either:

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(a) That a conference shall be called in accordance with Article 62, paragraph 4, of the Charter of the United Nations to consider the proposed amendment; or

(b) That the Parties shall be asked whether they accept the proposed amendment and also asked to submit to the Council any comments on the proposal.

2. If a proposed amendment circulated under paragraph 1 (b) of this article has not been rejected by any Party within eighteen months after it has been circulated, it shall thereupon enter into force. If, however, a proposed amendment is rejected by any Party, the Council may decide, in the light of comments received from Parties, whether a conference shall be called to consider such amendment.

Annex

Note verbale dated 12 March 2009 from the Permanent Mission of Bolivia to the United Nations addressed to the Secretary-General

[Original: Spanish]

The Permanent Mission of Bolivia to the United Nations presents its compliments to the Secretary-General and has the honour to transmit herewith a copy of the letter dated 12 March 2009 from the President of Bolivia, Evo Morales Ayma, addressed to the Secretary-General, relating to the deletion of article 49, paragraphs 2 (e) and 1 (c), of the Single Convention on Narcotic Drugs (see enclosure).

Enclosure

Letter dated 12 March 2009 from the President of Bolivia addressed to the Secretary-General

[Original: Spanish]

I have the honour to address you on behalf of the Government of Bolivia to request that article 49, paragraphs 2 (e) and 1 (c), of the Single Convention on Narcotic Drugs of 1961,[1] be deleted in accordance with the procedures established in article 47 of the Convention.

Article 49, paragraph 2 (e), states that "coca leaf chewing must be abolished within twenty-five years from the coming into force of this Convention as provided in paragraph 1 of article 41"; paragraph 1 (c) states that a Party to the Convention may reserve the right to permit coca leaf chewing temporarily in any one of its territories, subject to the restrictions established in paragraph 2 (e), that is, for a period of no more than 25 years.

Bolivia deposited its instrument of ratification of the Single Convention on Narcotic Drugs of 1961 on 23 September 1976. Consequently, the Convention entered into force in Bolivia on 23 October 1976, and the period of 25 years referred to in article 49, paragraph 2 (e), elapsed in 2001.

Coca leaf chewing is a one-thousand-year-old ancestral practice of the Andean indigenous peoples that cannot and should not be prohibited.

The custom of chewing coca leaves in the Andean region of South America dates back to at least the year 3000 B.C.[2] Historical evidence shows that the coca leaf has been used for thousands of years in Andean cultures (Incan and pre-Incan) and for centuries by Amazonian and Guarani cultures.

Coca leaf chewing is one of the sociocultural practices and rituals of the Andean indigenous peoples. It is closely linked to our history and cultural identity.

Today it is practised by millions of people in Bolivia, Peru, northern Argentina and Chile, Ecuador and Colombia. Its symbolic significance has ceremonial, religious and sociocultural connotations that transcend the sphere of indigenous cultures, extending also to mestizo groups.[3]

Coca leaf chewing helps to relieve feelings of hunger, provides energy during long working days and improves metabolism at high altitude.

Coca leaf chewing does not harm human health in any way; nor does it give rise to any kind of complication or addiction. Chewing coca is not the same as consuming cocaine. The cocaine alkaloid that makes up less than 0.8 per cent of the coca leaf and is ingested orally through chewing is not stable in an acidic environment like the stomach and is hydrolyzed there.[4]

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[1] As amended by the Protocol of 25 March 1972.

[2] Anthony Henman, in *Mama Coca* (1992:65), estimates that the custom of coca leaf chewing dates back 4,500 years.

[3] A study on legal uses of the coca leaf in Bolivia is currently being conducted with a view to determining how many people chew coca leaf in Bolivia.

[4] Roderick E. Burchard and Nieschulz in the study "Coca sagrada o ilegal" ("Coca: sacred or illegal").

Bolivian society has provided abundant evidence that the use of the coca leaf is not harmful to health. At no time in Bolivia's history has there been any clinical evidence of toxicity in patients or clinical reports of toxic effects among people who chew the coca leaf. In fact, no individuals have ever been admitted to drug dependency treatment centres for problems with addiction to coca leaf.

Even the report of the Commission of Enquiry on the Coca Leaf of May 1950, which served as the basis for the 1961 Convention, states that "it does not ... appear that the chewing of the coca leaf can be regarded as a drug addiction in the medical sense".[5] The report considers coca leaf chewing to be a "habit".

Nonetheless, the report, on the basis of erroneous non-scientific arguments that are loaded with sociocultural prejudices, proposes that coca leaf chewing should be "suppressed" because it supposedly "maintains, by a vicious circle, ... malnutrition", "induces in the individual undesirable changes of an intellectual and moral character", "certainly hinders the chewer's chances of obtaining a higher social standard", "reduces the economic yield of productive work, and therefore maintains a low economic standard of life".[6]

The objective of the Single Convention on Narcotic Drugs of 1961 is to control drug abuse, not to prohibit "habits" or sociocultural practices that do not harm human health.

The restrictions on and prohibition of coca leaf chewing established in article 49, paragraphs 1 (c) and 2 (e), of the Single Convention on Narcotic Drugs of 1961 constitute a violation of the rights of indigenous peoples set forth in, inter alia, the United Nations Declaration on the Rights of Indigenous Peoples, the International Covenant on Economic, Social and Cultural Rights, Convention No. 169 of the International Labour Organization, the Universal Declaration on Cultural Diversity, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions and the proclamation by the United Nations Educational, Scientific and Cultural Organization of the cosmovision of the Kallawaya people as a masterpiece of the oral and intangible heritage of humanity.

Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples literally states:

> "indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions ... and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions."

On 10 June 1990, when it deposited its instrument of ratification of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the Republic of Bolivia formulated a reservation in which it stated that "the coca leaf is widely used and consumed in Bolivia, with the result that, if [the relevant interpretation of the paragraph in question] was accepted, a

[5] Report of the Commission of Enquiry on the Coca Leaf (May 1950).

[6] Ibid.

large part of Bolivia's population could be considered criminals and punished as such; such an interpretation is therefore inapplicable".

The following recommendation from the *Report of the International Narcotics Control Board for 2007* makes obvious the great misconception of the Single Convention on Narcotic Drugs of 1961:

> The Board calls upon the Governments of Bolivia and Peru to initiate action without delay with a view to eliminating uses of coca leaf, including coca leaf chewing, that are contrary to the 1961 Convention. The Governments of those countries and Colombia should strengthen their efforts against the illicit manufacture of and trafficking in cocaine. The Board calls on the international community to provide assistance to those countries towards achieving those objectives.

In short, we request:

(a) That article 49, paragraph 1 (c), of the Single Convention on Narcotic Drugs of 1961 be deleted, because the sociocultural practice of coca leaf chewing cannot be permitted temporarily as if it were doomed to disappear some day and as if it were an evil that should be permitted only for a transitional period; and

(b) That article 49, paragraph 2 (e), be deleted because it is a serious mistake to seek to abolish coca leaf chewing within 25 years.

I am certain that, with the support of the entire international community, we can rectify these two serious errors in the Single Convention on Narcotic Drugs of 1961.

(*Signed*) Evo **Morales Ayma**
President of the Republic of Bolivia